

ORIGINAL

wehlucpl

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IN THE UNITED STATES DISTRICT COURT

FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WEH YUEH LU,

Defendant.

Magistrate J.C.

CRIMINAL CASE NO.

06-00031

COMPLAINT

REFUSAL TO ALLOW BOARDING

[16 U.S.C. § 1857(1)(D)]

THE UNDERSIGNED COMPLAINT CHARGES UPON INFORMATION AND BELIEF

THAT:

On or about September 9, 2006, within the special maritime and territorial jurisdiction of the United States, the defendant herein, WEH YUEH LU, did unlawfully and knowingly refuse to permit an officer who was authorized to enforce the provisions of the Magnuson Act, Title 16 U.S.C. § 1801 et seq., to board a fishing vessel which was subject to the control of WEH YUEH

**FILED**  
DISTRICT COURT OF GUAM

DEC - 8 2006

MARY L.M. MORAN  
CLERK OF COURT

1 LU, for purposes of conducting a search and inspection in connection with the enforcement of  
2 said Magnuson Act and any regulation, permit, and agreement pursuant thereto, to-wit: that WEH  
3 YUEH LU was the master of the FF/V Marshalls 201, and was fishing in an Exclusive  
4 Economic Zone (EEZ) of the United States and did knowingly and willfully refuse to permit  
5 United States Coast Guard officers of the USCG Cutter Walnut to board the Marshalls 201 for  
6 purposes of conducting a search and investigation concerning WEH YUEH LU's fishing in said  
7 EEZ,  
8

9 ALL IN VIOLATION of Title 16, United States Code, Section 1857(1)(D) and Title 18,  
10 United States Code, Section 7(1).  
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12 COMPLAINANT FURTHER STATES:

13 1. I am a Special Agent employed by the United States Coast Guard Investigative  
14 Service. I have reviewed a report written by LTJG Thomas E. Przybyla, Operations Officer for  
15 the United States Coast Guard Cutter (USCGC) Walnut, which reflects as follows.  
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17 2. On September 9, 2006, Lt. Przybyla was the Officer of the Deck (OOD) and standing  
18 watch on the bridge of the USCGC Walnut when he received a communication from Coast  
19 Guard HC-130 aircraft, tail number 1702. Member of crew of the C-130 reported they were  
20 patrolling the U.S. Exclusive Economic Zone (EEZ) around the Howland and Baker Islands,  
21 when they observed a vessel fishing inside the EEZ. They identified the vessel as the Republic  
22 of Marshall Islands flagged fishing vessel (FF/V) Marshals 201. Crew members observed that  
23 the Marshalls 201 had nets in the water. The USCGC Walnut plotted a course to intercept this  
24 vessel, based upon the coordinates provided by the crew of the C-130.  
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26 3. The USCGC Walnut located the Marshalls 201 approximately two miles within the  
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1 United States EEZ. It was dead in the water with numerous work boats around it. Although  
2 various attempts were made to hail the vessel on VHF channel 16, which is the international  
3 hailing and distress frequency, the vessel hauled in its gear and got under way. The USCGC  
4 Walnut began to pursue.

6 4. During the pursuit, officers of the USCGC Walnut continued to hailed the Marshalls  
7 201 on VHF channel 16, ordering it to stop. The only communication they received from the  
8 vessel was a voice saying he did not speak English. The vessel did not stop. Officers then  
9 hoisted the "Lima," a black and yellow checkered flag which is the signal code flag  
10 internationally recognized as the signal to "Stop Instantly." In addition, officers of the USCGC  
11 Walnut repeatedly sounded the Lima sound signal. The Marshalls 201 did not stop until it had  
12 left the U.S. EEZ, which was several miles from where the vessel had first been ordered to heave  
13 to.  
14

15 FURTHER AFFIANT SAYETH NAUGHT.

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19 KELLY S. HOYLE  
Special Agent, Coast Guard Investigative Service

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21 SUBSCRIBED AND SWORN TO before me on this 8th day of December, 2006.

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23   
24 JOAQUIN V.E. MANIBUSAN, JR.  
25 Magistrate Judge  
26 District Court of Guam  
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